

**APPENDIX I**

**Special Law for the Conduct of Lawsuits Filed By Persons Affected By the Use of  
Pesticides Manufactured with a DBCP Base**

**(“Special Law 364”)**

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NATIONAL ASSEMBLY OF THE  
REPUBLIC OF NICARAGUA

Law No. 364

THE PRESIDENT OF THE REPUBLIC OF  
NICARAGUA

Makes known to the Nicaraguan people that:

THE NATIONAL ASSEMBLY OF THE  
REPUBLIC OF NICARAGUA

In the exercise of its powers;

HAS ISSUED

The following:

**SPECIAL LAW FOR THE CONDUCT OF  
LAWSUITS FILED BY PERSONS AFFECTED BY  
THE USE OF PESTICIDES MANUFACTURED  
WITH A DBCP BASE**

Article 1. This Law has as its purpose to regulate and facilitate the procedure for the conduct of lawsuits with regard to compensation of persons whose physical, psychological or pathological health was affected by the use and application of the pesticide DBCP, 1,2 dibromo-3-chloropropane and derivatives thereof, known in our country under the names of NEMAGON and FUMAZONE, among others, which were used on various national crops and plantations.

Article 2. The companies manufacturing the products indicated in Article 1 of this Law, as well as the companies importing, distributing, marketing and applying these products in Nicaragua, who, notwithstanding having been fully aware of the effects that these pesticides produced in the human organism, such as sterility and damage to the kidneys, liver and spleen, for which reason their use was banned

in the United States of North America, could be civilly and criminally liable, according to our laws, which would result in compensation for the persons who are or have been affected by these pesticides, notwithstanding the criminal liabilities arising through the possible commission of these criminal acts. This compensation may be claimed by the relatives of the deceased for the same cause, having the same rights that the Law provides, complying with the rules and regulations of succession set forth in the Civil Code of the Republic of Nicaragua.

Article 3. The companies sued in the United States of America, which, because of having chosen to have the lawsuits transferred to Nicaraguan courts, currently are being sued in the courts of our country, shall be required to compensate, once the scope of the claim is established in the respective judicial proceeding, with a minimum sum equivalent to One Hundred Thousand American Dollars, or the equivalent thereof in córdobas at the official rate of exchange in effect at the time of payment of this compensation, depending on the severity of the case, each affected party who filed a complaint in our courts and when it has been verified that the said party's health has been physically or psychologically affected.

Article 4. To guarantee the outcome of the lawsuit, the defendants are to deposit, within ninety (90) days after the respective lawsuits have been brought before the courts of the Republic, the sum of one hundred thousand dollars or the equivalent thereof in córdobas at the official rate of exchange in effect at the time of the deposit in the respective court, as a procedural prerequisite for being able to take part in the lawsuit. By strict rule of this Law, persons who file as plaintiffs shall enjoy the rights of the indigent established in our current legislation.

Article 5. The security deposit referred to in Article 4 of this Law shall cover the costs of the lawsuit in the national courts; in addition it shall be considered as part of future compensation that the affected persons may receive for any physical, psychological or pathological deformation resulting from sterility, cancer and other illnesses and physical damage and pain and suffering that may be confirmed, as a result of the use and application of the pesticide DBCP.

This provisional deposit shall neither release nor be releasing for the companies referred to in this Law, and the lawsuit against them must continue until the final judgment is issued.

Article 6. The imposition of civil liability and criminal penalties is hereby declared not subject to a statute of limitations for persons who exercised a public function at the time when its importation was authorized and those who

authorized use and application thereof, as well as the manufacturing, importing, distributing, marketing and applying companies, if the commission of a punishable act is proven, in accordance with the provisions of the Penal Code in force.

Article 7. Companies that, within ninety (90) days of being given notice of this Law by the plaintiff and service of process through the corresponding channel, have not deposited the sum established in Article 4 hereof, must subject themselves unconditionally to the jurisdiction of the courts of the United States of America for the final judgment of the case in question, expressly waiving the defense of *forum non conveniens* invoked in those courts. In the event that the defendants decide that the proceedings are to continue in the Nicaraguan courts, they are to deposit the amount established in Article 4 of this Law.

Article 8. Within a period of ninety (90) days after having received notice of the complaints brought before the courts of the Republic, each of the manufacturers of these products, as well as the other defendants who did not sign payment arrangements with the workers, are to deposit the amount of NIO 300,000,000.00 (three hundred million córdobas) to a special account at a bank of their choice, in order to guarantee payment of the possible compensation to the workers and other costs of the lawsuit.

Article 9. The affected persons who, during the procedural phases of the trial, have shown that they were exposed to the substance or pesticide referred to in Article 1 of this Law, and who have been left in a condition of sterility as a consequence thereof, shall have the benefit and irrefutable presumption that said condition was caused by the same. Ample and sufficient proof thereof shall be the presentation of two certified medical examinations recognized by the National Reference Laboratory of the Ministry of Health or by the Institute for Forensic Medicine, or failing that, by a laboratory duly accredited by the Ministry of Health.

In the cases provided for by this Law, the competent judge may take the following evidence into consideration, for purposes of quantification of the respective compensation to each of the plaintiffs in the lawsuit:

1. The medical-legal examination and assessment.
2. The psychological assessment.
3. The specialized medical assessment, if possible.

Article 10. For the establishment of liability for pain and suffering, the judicial authority shall comply with the provisions in our case law and what is established in comparative law and legal doctrine.

Article 11. The following minimum table is established for

compensation for pain and suffering to be paid jointly by the defendants:

Affected parties	Compensation
(a) Azoospermatic	USD 100,000.00 minimum
(b) Severe oligospermatic	USD 50,000.00 minimum
(c) Other damage	USD 25,000.00 minimum

Article 12. In all cases in which there is recourse to national courts, at the request of the interested party, the plaintiff, it shall be appropriate to apply, with regard to compensation and the corresponding related penalties, in accordance with law, the relevant evidence, parameters and amounts under foreign law, duly accredited in the lawsuit according to Nicaraguan legislation. The authority competent to hear these cases shall be the Civil District Judges, by means of a special trial proceeding, which shall have an unavoidable 3-8-3 term under penalty of disciplinary legal action if this term is not respected.

In the event that the national judge is unable to apply the provisions of the preceding paragraph to a specific case that he is hearing, at his discretion he shall apply the amounts of compensation to which the plaintiff is entitled, taking into consideration the damage caused to the plaintiffs.

Article 13. In the event that the parties affected by the use of the pesticide referred to in Article 1 of this Law do not have the financial standing to obtain professional legal aid to uphold their rights in court, the Republic of Nicaragua shall be required to ensure such professional legal aid thereto for the defense of their rights in the national as well as foreign courts. The Commission for Human Rights and Peace and the Commission for Labor and Union Matters are similarly instructed to provide the corresponding follow-up to the complaints that are drawn up in accordance with this Law.

Article 14. Appeals of the judgments of first instance, a result of the application of these rules, shall be only without stay of execution and shall preclude neither the payments nor the security deposits ordered in this Law.

Article 15. This Law is declared to be a matter of public order and of social and national interest. This Law also shall be applicable to legal proceedings already initiated at the time of its entry into effect.

Article 16. This Law shall enter into effect as of its publication in any written means of public communication, notwithstanding its subsequent publication in The Gazette, Official Journal.

Drawn up in the City of Managua, in the Meeting Room of the National Assembly, on the fifth day of the month of October of two thousand. - OSCAR MONCADA REYES, Chairman of the National Assembly by Law. - PEDRO JOAQUIN RIOS CASTELLON, Secretary of the National Assembly.

Therefore: Uphold as Law of the Republic. Publish and implement. Managua, twenty-third of November of the year two thousand. - ARNOLDO ALEMAN LACAYO, President of the Republic of Nicaragua.

OFFICE OF THE PRESIDENT OF THE  
REPUBLIC OF NICARAGUA

DECREE No. 04-2001

The President of the Republic of Nicaragua

In the exercise of the powers vested in him by the  
Constitution,

HAS ISSUED

The following

DECREE

Article 1 There are amended Articles 5 and 6 of Decree 2-95 Creation of the national Lottery, published in The Gazette, Official Journal Number 34 of February 17, 1995, which shall read as follows:

"Article 5 The National Lottery shall have the following managerial and administrative bodies:

- (a) A Board of Directors.
- (b) A General Manager.
- (c) A Deputy Financial Management."

"Article 6 The Board of Directors is the Senior Body of the Company and shall be made up of six members:

The Chairman of the Board of Directors, the other members and the Deputy Financial Manager shall be appointed by the President of the Republic and for such posts shall be required to be persons with recognized profession, known integrity and outstanding respectability and moral character."

Art. 2 This Decree shall enter into effect starting from its publication in The Gazette, Official Journal.

Drawn up in the City of Managua, Presidential House, on the eleventh of January of the year two thousand and one. - ARNOLDO ALEMAN LACAYO, President of the Republic of Nicaragua.